

## ARTICLE 6

### ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

#### PART 1                                      6-100                                      ACCESSORY USES AND STRUCTURES

##### 6-101                                      Authorization

Accessory uses and structures are permitted in any zoning district, unless qualified below, but only in conjunction with, incidental to, and on the same lot with a principal use or structure which is permitted within such district.

##### 6-102                                      Permitted Accessory Uses

Accessory uses and structures shall include, but are not limited to, the following uses and structures, provided that such uses or structure shall be in accordance with the definition of Accessory Use contained in Article 15.

1. Antenna structures.
2. Barns and any other structures that are customarily incidental to an agricultural use on a tract of land not less than two (2) acres.
3. Carports.
4. Child's playhouse, not to exceed 100 square feet in gross floor area, and child's play equipment.
5. Doghouses, pens and other similar structures for the housing of commonly accepted pets, but not including kennels as defined in Article 15.
6. Fallout shelters.
7. Garages, private, subject to the following limitations:
  - A. No garage accessory to a multiple family residence shall be designed for more than two (2) vehicles per dwelling unit.
  - B. No tractor trailer and not more than one (1) commercial vehicle may be parked in a private, enclosed garage in an R District.
8. Gardening.
9. Guest house or rooms for guests in an accessory structure, but only on lots of at least two (2) acres and provided such house is without kitchen facilities, is used for the occasional housing of guests of the occupants of the principal structure and not as rental units or for permanent occupancy as housekeeping units.
10. Parking and loading spaces, off-street, as regulated by Article 7.

11. Parking of not more than one commercial vehicle per occupancy/operator in a residential district, but not to include any tractor trailer or vehicle exceeding one and one-half (1 ½) ton capacity. Parking shall not be in any required front or side yard.

In the rural zoning districts the parking of any tractor trailer or vehicle exceeding one and one-half (1 ½) ton capacity shall not be permitted on a parcel of one (1) acre or less. Parking also shall not be permitted in any required setback.

12. Parking of small cargo trailers and major recreational equipment in an R District including but not limited to boats, boat trailers, camping trailers, travel trailers, motorized dwellings, tent trailers, houseboats and horse vans, but subject to the following limitations:

- A. Such equipment shall not be used for living, sleeping or other occupancy when parked, or stored on a residential lot or in any other location not approved for such use.
- B. Such equipment six (6) feet or more in average height, not parked or stored in a garage, carport or other structure:
  - (1) Shall not be located in any required front or side yard.
  - (2) Shall be located at least three (3) feet from all buildings.

13. Porches, gazebos, belvederes and similar structures.

14. Quarters of a caretaker, watchman or tenant farmer, and his family, but only in the Rural Districts at a density not to exceed one (1) unit per fifty (50) acres.

15. Recreation, storage and service structures in a mobile home park.

16. Residence for a proprietor or storekeeper and their families located in the same building as their place of occupation.

17. Signs, as permitted by Article 8.

18. Statues, arbors, trellises, barbecue stoves, flagpoles, fences, walls and hedges.

19. Storage outside, to include a compost pile, farm equipment and inoperable and junk vehicles on any lot as provided for in Section 2-508, provided such storage and/or vehicle in a Residential District is located on the rear half of the lot; is screened from view from the first story window of any neighboring dwelling; and the total area for such outside storage, excluding the area occupied by one (1) junk vehicle, does not occupy more than 100 square feet.

20. Storage structures incidental to a permitted use, provided no such structure that is accessory to a single family detached or attached dwelling in the Residential Districts shall exceed 200 square feet in gross floor area. Such structures exceeding 200 square feet shall not be deemed accessory structures

and shall be subject to the bulk regulations for principal structures for the zoning district in which located.

21. Swimming pool and bathhouses, private.
22. Tennis, basketball or volleyball court and other similar private outdoor recreation uses.
23. Wayside stands, but subject to the following limitations:
  - A. Shall be permitted only in the Rural District, on a lot containing at least 80,000 square feet.
  - B. Structures shall not exceed 400 square feet in gross floor area.
  - C. Shall be permitted only during crop-growing season, and such structures shall be removed except during such season.
  - D. Shall be for the express purpose of sale of agricultural products grown on the same property or the sale of products of approved home occupations conducted on the same property. For the purpose of this Ordinance, plants which are balled, burlapped or bedded shall not be considered as growing on the same property.
  - E. Shall not be subject to the location requirements set forth in Section 105 below, but shall be located a minimum distance of thirty (30) feet from the street line and no closer than ten (10) feet to any lot line which abuts an R District.
  - F. Shall be located so as to provide for adequate off-street parking spaces and safe ingress and egress to the adjacent street.
  - G. Notwithstanding the provisions of Article 8, a wayside stand may have one (1) building mounted sign which does not exceed ten (10) square feet in area, mounted flush against the stand.
24. Ponds, but subject to the following limitations:
  - A. In addition to the regulations set forth in Subsection C below, ponds in Rural Zoning Districts shall also be subject to the following regulations:
    1. Ponds, not requiring State of Virginia approval, shall be permitted in any Rural zoning district after the issuance of zoning permit.
    2. Ponds requiring State of Virginia approval shall be permitted in any Rural Zoning District upon State approval and issuance of a zoning permit.

B. In addition to the regulations set forth in Subsection C below, ponds not located within a Rural zoning district shall also be subject to the following regulations:

1. Ponds of more than 1 acre-feet in volume, or with a drainage area of 20 acres or more, shall be designed and inspected by a licensed professional engineer or other professional licensed or certified by the State of Virginia to do such work. The pond plans submitted to the Department of Community Development shall contain the professional's signature and date certifying that the "Site, soil and design standards meet, at a minimum the current Virginia Natural Resources Conservation Service (NRCS) Standards and Specifications for Ponds." These will be reviewed and approved as part of the construction plans and profiles approval process. An exception to this requirement is a pond located on property which is being utilized for agricultural uses as designated within Section 3-318. Only a zoning permit issuance is required, unless the threshold conditions outlined in paragraph F are achieved.
2. Ponds of less than 1 acres feet in volume and with a drainage area of less than 20 acres shall be permitted upon the issuance of any applicable State of Virginia approval and a zoning permit.

C. All Zoning Districts: Ponds in all zoning districts shall be subject to the following regulations:

1. The pond shall be located so that the 100 year flood pool and spillway is located not less than 50 feet from an adjacent property line unless with the written consent of the owner(s) involved, is obtained and submitted with the zoning permit application.
2. No land shall be disturbed in the construction of the pond that is less than 25 feet from an adjacent property line unless with the written consent of the owner(s) involved, is obtained and submitted with the zoning permit application.
3. The property owner shall at all times comply with State and Federal requirements regarding impoundment structures.
4. Dams - The State Water Control Board regulates impounding structures which have a maximum capacity greater or equal to 50 acre-feet or a height greater than 25 feet. The design criteria

presented below apply to impounding structures, which have a height greater than or equal to 15 feet and up to 25 feet. These impounding structures will be reviewed and approved by the County,

and shall conform to all design criteria listed in NRCS Pond Specification Number 378, or any equivalent design criteria listed in an alternative source accepted by the County Engineer. The following supplementary criteria shall also apply:

- a. The height of the dam ( $H_d$ ) is defined as the vertical distance from the foundation to the water surface elevation plus freeboard allowance for wind setup, waves, and frost action.
- b. A slope stability analysis will be performed to address seepage through the structure, pore water pressure within the structure, slope pressure, and slope protection.
- c. A maintenance program will be provided in conformance to "Safety Evaluation of Small Earth Dams", 2nd Ed., Natural Resources Conservation Service, Virginia Department of Conservation and Historic Resources.

25. Yard/garage sales access to residential uses, subject to the following limitations (no Zoning Permit required):

- A. Not more than two yard sales may be conducted on a lot in any calendar year.
- B. A yard sale shall not continue for longer than two days which shall be consecutive.
- C. Items offered for sale shall be used household goods or articles created or substantially processed on the premises by the residents thereof, and shall be the property of those residents.
- D. Yard sales in excess of two (2) per year may be granted with special permit approval. In no case shall more than 6 yard sales be permitted in any calendar year.

26. Animal waste storage facility (including but not limited to a pile, storage tank or pit) subject to the following limitations:

- A. Approval from the State Water Control Board.
- B. Approval in writing by the John Marshall Soil and Water Conservation District to location and retention facility design.

27. The sale of wine for on-site consumption of wine produced by that winery.

28. Fundraising by local non-profit and governmental entities at governmental athletic recreation uses permitted pursuant to Section 3-311.18 of this Ordinance, if the accompanying standards are met. Fundraiser is defined as the raising of funds for the development and operation of the governmental athletic property upon which the event is held. A no-fee administrative permit is required.

For purposes of this definition, the term “event” shall not include any sports competitions in which youth or local adults are the principle users of the facility. Fundraising shall be subject to the following performing standards.

- A. In no event shall fireworks, hot air balloons or helicopters be used for any event(s).
- B. In no case shall attendance exceed 1,000, based upon the capacity of the facility.
- C. The maximum number of events shall not exceed two (2) in any calendar week.
- D. All grass areas used for parking shall be mowed and maintained as to minimize the risk of vehicle and field fires.
- E. The non-profit or governmental entity shall provide adequate security, emergency, traffic control, sanitation, and refreshment services at every event or activity.
- F. He applicant shall require its employees/volunteers and all invitees to strictly comply with State burning laws and copies of such laws shall be posted on site.
- G. The applicant shall conform at all times to County Health Department regulations.
- H. All uses under this category shall be conducted so as to meet all noise performance standards enumerated in Article 9 of the Fauquier County Zoning Ordinance.
- I. During events with outdoor music or amplified sound, the maximum permitted sound pressure noise levels shall not exceed 60 decibels at the property line (s).
- J. All events shall be conducted between the hours of 8:00 a. m. and 11:00 p. m. provided that all outdoor music shall cease no later than 10:00 p.m. Event preparation and breakdown shall cease by 11:00 p. m.
- K. All lighting shall be in conformance with the Fauquier County Zoning Ordinance and positioned downward, inward and shielded to eliminate glare from all adjacent properties.
- L. Virginia Department of Transportation approval and installation of entrance shall occur prior to any event being held.

29. Fundraising by local non-profit and governmental entities shall be permitted as an accessory use to residential uses in the Rural Agriculture and Rural Conservation zoning districts, if the accompanying standards are met. An administrative permit is required.

Fundraising under this subsection shall be subject to the following performance standards.

- A. In no event shall fireworks, hot air balloons or helicopters be used for any event(s).
- B. In no case shall attendance exceed 1,000, based upon the capacity of the facility.
- C. The maximum number of events shall not exceed two (2) in any calendar year.
- D. All grass areas used for parking shall be mowed and maintained as to minimize the risk of vehicle and field fires.
- E. The applicant shall provide adequate security, emergency services, traffic control, sanitation and refreshment services at every event activity.
- F. The applicant shall require its employees/volunteers and all invitees to strictly comply with State burning laws and copies of such laws shall be posted on site.
- G. The applicant shall conform at all times to County Health Department regulations.
- H. All uses under this category shall be conducted so as to meet all noise performance standards enumerated in Article 9 of the Fauquier County Zoning Ordinance.
- I. During events with outdoor music or amplified sound, the maximum permitted sound pressure noise levels shall not exceed 60 decibels at the property line(s).
- J. All events shall be conducted between the hours of 8:00 a.m. and 11:00 p.m. provided that all outdoor music shall cease no later than 10:00 p.m. event preparation and breakdown shall cease by 11:00 p.m.
- K. All lighting shall be in conformance with the Fauquier County Zoning Ordinance and positioned downward, inward and shielded to eliminate glare from all adjacent properties.
- L. Virginia Department of Transportation approval and installation of entrance shall occur prior to any event being held.

- M. The applicant shall provide a copy of the local non-profit's IRC §501.c. determination letter from the Internal Revenue Code or a letter from the governmental agency stating that the event is being held for the benefit of the governmental agency.
- N. The site shall contain a minimum of 50 acres and have a minimum of 300 feet of frontage on a road designated by the County as a major collector (or higher) in the Comprehensive Plan unless the Zoning Administrator in issuing this permit determines that the type and amount of traffic generated by the fund raising event is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.

**6-103**

**Accessory Uses Not Permitted**

- 1. Outdoor storage or overnight parking of buses, trucks or other vehicles exceeding one (1) ton capacity in a Residential District.
- 2. Junkyards, scrap heaps or refuse piles except as specifically permitted in Section 102 above.

**6-104**

**Use Limitations**

- 1. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- 2. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.
- 3. All accessory uses and structures combined shall cover no more than thirty (30) percent of the areas of the required rear yard.
- 4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified in Section 2-506.
- 5. The following use limitations shall apply to fences: in residential districts, barbed wire or electric fences shall not be permitted on lots of less than twenty-five (25) acres; however, barbed wire strand(s) may be used to enclose storage areas or other similar industrial and commercial uses or swimming pools. These strands shall be restricted to the uppermost portions of the fence and shall not extend lower than a height of six (6) feet from the nearest ground level.
- 6. A swimming pool on a lot of less than 10 acres shall be completely surrounded by a security fence or wall not less than four feet in height. Said fence shall be completed prior to issuance of final building inspection for a pool.

**6-105**

**Location Regulations**



1. If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building.
2. Off-street parking and loading spaces shall be located in accordance with the provisions of Article 7.
3. Signs shall be located in accordance with the provisions of Article 8.
4. Wayside stands shall be located in accordance with the provisions of Paragraph 23 of Section 102 above.
5. Ponds shall be located in accordance with the provisions of Paragraph 24 of Section 102 above.
6. Barns shall not be located less than 100 feet from any property line.
7. The following regulations shall apply to the location of all accessory structures or uses except those specifically set forth in Paragraphs 1-5 above.
  - A. An accessory structure or use, no part of which exceeds seven (7) feet in height, may be located in any part of any side or rear yard, except as qualified in Section 2-505.
  - B. No accessory structure or use shall be located in any required minimum front yard, except fences which do not exceed five feet in height, statues, arbor, trellis or flagpole, gate and gate posts.
  - C. No accessory structure or use which exceeds seven (7) feet in height shall be located in any required minimum side yard except as may be expressly permitted by a variance granted in accordance with the provisions of Part 4 of Article 13.
  - D. No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its height to any lot line in the rear yard except as may be expressly permitted by a variance granted in accordance with the provisions of Part 4 of Article 13.
  - E. On a corner lot, the rear line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:
    - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the required minimum side yard on such lot to the rear, or,
    - (2) Nearer to the side street line than a distance equal to the required front yard on the lot to the rear.

## **PART 2**

### **6-200**

### **ACCESSORY SERVICE USES**

**6-201**

**Authorization**

Accessory service uses, as defined in Article 15, are permitted in connection with certain principal uses as set forth below when expressly authorized in the zoning district regulations.

**6-202**

**Permitted Accessory Service Uses**

1. Accessory to a principal use of multiple family dwellings when such dwelling or dwelling complex has a minimum of 250 dwelling units:
  - A. Eating establishments.
  - B. Group day care facilities or day care centers.
  - C. Personal service establishments.
  - D. Retail sales establishments selling convenience merchandise.
2. Accessory to a principal use of offices, industrial establishments or institutional buildings in the Commercial and Industrial Districts when such principal use has a gross floor area of at least 100,000 square feet, except as qualified below:
  - A. Business service and supply service establishments.
  - B. Eating establishments.
  - C. Group day care facilities or day care centers.
  - D. Health clubs, spas, sauna and steam baths, swimming pools, indoor tennis courts, and other similar facilities but not including places for the training of athletes for competition.
  - E. Offices for professional people associated with an industrial establishment or institutional building, with no limitation on the gross floor area of the principal use.
  - F. Personal service establishment.
  - G. A single residence for a watchman, custodian, proprietor or owner whose employment or business is directly related to the principal use, with no limitation on the gross floor area of the principal use.
  - H. Retail sales establishments selling convenience merchandise.

**6-203**

**Use Limitations**

In addition to the use limitations applicable to the zoning district in which located, all accessory service uses shall be subject to the following use limitations:

1. Accessory service uses shall be designed to cater primarily to the residents or employees of the principal use with which they are associated.
2. With the exception of those uses set forth in Paragraph 3 below, all accessory service uses shall be located in the same building as the principal use, and public access to an accessory service use shall be only from an interior lobby or corridor of the building in which located.
3. Accessory service uses in the C-3 District may be located in a freestanding building separate from the principal use, and eating establishments in the I-1 District may also be located in a freestanding building; but such freestanding buildings shall be allowed only in those locations shown on an approved development plan for a planned office or industrial park. The use limitations and standards set forth in this Part shall also apply to such a freestanding accessory service use.
4. The aggregate area of all accessory service uses shall not exceed fifteen (15) percent of the total gross floor area of the principal building or buildings.
5. No accessory service use shall be located above the second floor of the building in which located, with the exception of:
  - A. The residence of a proprietor or owner which may be located on any floor.
  - B. The offices for professional people which may be located on any floor.
  - C. An eating establishment which may be located in a rooftop penthouse.
6. Signs for accessory service uses shall be regulated by the provisions of Article 8.

## **PART 3**

### **6-300**

### **HOME OCCUPATIONS**

#### **6-301**

#### **Authorization**

Home occupations are permitted subject to the following provisions and any use limitations applicable in the zoning district in which located.

#### **6-302**

#### **Permitted Home Occupations**

Home occupations include the following uses and those uses determined by the Zoning Administrator to be sufficiently similar thereto in terms of type, scale and impact:

1. Artists and sculptors.
2. Authors and composers.
3. Dressmakers, seamstresses and tailors.
4. Family day care home limited to not more than five (5) children, excluding the provider's own children and any other children residing in the home.
5. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, ceramics and similar light manufacturing uses.
6. Office facility of a minister, rabbi, priest or other similar person associated with a religious organization.
7. Office facility of salesman, sales representative or manufacturer's representative, provided that no retail or wholesale transactions are made on the premises.
8. Office facility, of an architect, artist, broker, consultant, dentist, physician, professional therapist, engineer, planner, landscape architect, public relations practitioner, instructor in arts and crafts, insurance agent, land surveyor, lawyer, musician, real estate agent and typist.
9. School of special education whose class size does not exceed four (4) pupils at any given time.
10. The letting for hire of not more than two (2) rooms, for rooming or boarding use for not more than two (2) persons, neither of whom is a transient.
11. Repair service establishment as a home occupation with special permit approval.
12. Sales of antique/classic automobiles where not more than 3 cars are inventoried, all cars are stored indoors, and there is no on-site signage or advertising with special permit approval.
13. Pet Grooming with special permit approval in the RC, RA, RR-2, R-1, R-2 and R-4 zoning districts and permitted by right in the Village zoning district.
14. Gunsmithing with an inventory for retail sales of not more than ten (10) guns at any one time, none of which can be fully automatic, with no on-site signage or advertising and with special permit approval.
15. Transportation/courier businesses with special permit approval.

**6-303**

**Uses Not Permitted as Home Occupations**

Permitted home occupations shall not in any event be deemed to include antique shops, barbershops or beauty parlors, funeral chapel or funeral home, gift shop, medical or dental clinic or hospital, renting of trailers, restaurants, riding or boarding stable or kennel, tourist home, clinic or hospital, abattoir, motor vehicle related uses (see Section 3-314), commercial recreation uses, massage parlors and fortunetellers.

**6-304**

**Use Limitations**

In addition to the use limitations applicable to the zoning district in which located, all home occupations shall be subject to the following use limitations:

1. A home occupation must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.
2. No retail sales shall be conducted on the premises (for uses allowed in accordance with Section 3-302.1).
3. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit, or machinery or equipment which is essential in the conduct of the home occupation.
4. No outside display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
5. No more than one (1) person other than a member of the household occupying such dwelling shall be employed.
6. No sign shall be permitted except in accordance with the provisions of Article 8.